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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,901	06/27/2003	William R. Kennedy	KDY 9493	7782
321	7590	12/02/2004	EXAMINER	
SENNIGER POWERS LEAVITT AND ROEDEL ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			JOYCE, HAROLD	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/608,901	Applicant(s) KENNEDY ET AL.	
	Examiner Harold Joyce	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the United Kingdom patent in view of Kennedy et al. ('820). The United Kingdom patent discloses the claimed invention except the United Kingdom patent is silent as to the location of the electro-pneumatic or hydraulic valves even though one might reasonable assume that the actuator is mounted adjacent the closure. Nevertheless, Kennedy et al. ('820) teaches that it is known to provide power actuator mounted adjacent a leaf as set forth at column 8, lines 21-58. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the pneumatic cylinder of the United Kingdom patent to be mounted adjacent the doors, as taught by Kennedy et al. ('820) in order to provide a well known location for a door actuator. As to claim 10, for the first and second leaf to be coplanar would have been obvious in view of the negative teaching at page 2, lines 41-45 of the United Kingdom patent if one did not want to take the benefit of a door which would require less force to initially open it against pressure.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-18, 25 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by the United Kingdom patent. As to claim 12, the door frame is considered to be the portion of the V-formation, which act as a stop, of the triangular top plate.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the United Kingdom patent in view of Kennedy et al. ('820). The United Kingdom patent discloses the claimed invention except for the man door. Kennedy et al. ('820) teaches that it is known to provide a leaf with a man door for closing a man doorway as set forth at column 7, line 64 to column 8, line 6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the leaf of the United Kingdom patent with a man door, as taught by Kennedy et al. ('820) in order to allow a passageway by personnel without having to open any of the leaves.

6. Claims 26-28, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the United Kingdom patent. The United Kingdom patent discloses the claimed invention except for the closure being movable to the open position against pressure up to 2-4 times greater the pressure required to move the leaf to the open position. For the pressures to open the closure to be 2-4 time greater then the pressure required to move the leaf spring in dictated by the ratio of the surface areas between the

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two. Note in applicant's specification, paragraph [0034]. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the ratios to be so as to achieve the claimed difference in pressure to open the closure and leaf, since it solely based on the size of the closure to the leaf. Note also as to claims 27 and 28, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the maximum pressures as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

#### ***Claim Rejections - 35 USC § 112***

7. Claims 31 and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 31, line 17, "or closed" and claim 34 are directed to new matter.

#### ***Response to Arguments***

8. Applicant's arguments filed October 14, 2004 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either

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in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, contrary to applicant's arguments, the mine door of the United Kingdom patent is cable of being used even if there is no pressure formed on the other side of the door. Note, one would not expect a high pressure to be present in the mine at all times.

### **Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

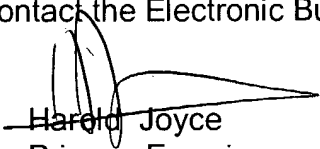
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Joyce whose telephone number is (703) 308-0274. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harold Joyce  
Primary Examiner  
Art Unit 3749